

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JIMMIE G. CLUTTS and DEPARTMENT OF AGRICULTURE,
FOOD SAFETY & INSPECTION SERVICE, Green Forest, AR

*Docket No. 00-1210; Submitted on the Record;
Issued March 20, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant established that he sustained an employment-related occupational injury.

On August 23, 1999 appellant, then a 50-year-old food inspector, filed an occupational disease claim alleging that, as a result of working as an on-line inspector eight hours a day, he sustained pain in his shoulders, upper arms and elbows; soreness in his lower arms; and stiffness and soreness in his fingers and hands. In support of his claim, appellant submitted a job description and various employment records.

By letter dated September 27, 1999, the Office of Workers' Compensation Programs requested that the employing establishment furnish further information on the tasks performed by appellant and precautions taken to minimize the effects of those tasks. The employing establishment responded that appellant was required to lift, push, pull, bend and stoop, and to use coordinated hand, arm and eye movements on approximately 35 chicken carcasses per minute for an 8-hour shift. Appellant had a total of one hour of break time during each eight-hour shift.

By letter dated September 27, 1999, the Office requested that appellant furnish further information pertaining to his job function and his injury, as well as a comprehensive medical report from his treating physician explaining how exposure or incidences in appellant's employment contributed to or caused his condition. Appellant submitted written responses to the questions posed by the Office, and a report dated October 27, 1999 in which Dr. Stanley P. Hayes, a Board-certified internist, noted appellant's diagnosis of primary osteoarthritis in his fingers and shoulders and symptoms of bilateral carpal tunnel syndrome.

By a decision dated November 2, 1999, the Office denied appellant's claim on the grounds that he did not establish a causal relationship between his condition and his employment. In a letter postmarked February 16, 2000, appellant requested a hearing. By a

decision dated March 23, 2000, appellant's request was denied on the grounds that it was not timely filed. This appeal follows.

Initially, the Board notes that the Office's March 23, 2000 decision was issued subsequent to February 16, 2000, the date that appellant filed an appeal with the Board. The Board and the Office may not have concurrent jurisdiction over the same issue in the same case.¹ As the March 23, 2000 decision denied appellant's request for a hearing, the Branch of Hearings and Review would have addressed the same issue that would have been addressed by the Board on appeal. The March 23, 2000 Office decision is, therefore, null and void.

The Board finds that appellant did not meet his burden of proof to establish that he sustained an employment-related injury.

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his or her claim³ including the fact that the individual is an "employee of the United States" within the meaning of the Act,⁴ that the claim was timely filed within the applicable time limitation period of the Act,⁵ that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.⁶ These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁷

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁸

¹ *Douglas E. Billings*, 41 ECAB 880 (1990).

² 5 U.S.C. §§ 8101-8193.

³ See *Daniel R. Hickman*, 34 ECAB 1220 (1983); see also 20 C.F.R. § 10.115.

⁴ See *James A. Lynch*, 32 ECAB 2116 (1980); see also 5 U.S.C. § 8101(1).

⁵ 5 U.S.C. § 8122.

⁶ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁷ *Delores C. Ellyett*, 41 ECAB 922 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁸ *Victor J. Woodhams*, *supra* note 7.

Causal relationship is a medical issue⁹ and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence that includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹⁰ Moreover, the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹¹

In this case, while appellant submitted medical evidence establishing the presence of an injury, he did not submit any rationalized medical evidence establishing that employment factors caused or contributed to his condition.¹² The medical evidence submitted merely addresses the existence of his condition, but does not contain an opinion regarding the cause of his condition. Dr. Hayes' report of October 27, 1999 merely notes appellant's diagnosis but does not address issues of causal relationship. Appellant, therefore, did not establish that he sustained an employment-related injury.

⁹ *Mary J. Briggs*, 37 ECAB 578 (1986).

¹⁰ *Victor J. Woodhams*, *supra* note 7; *Charles E. Burke*, 47 ECAB 185 (1995); *Thomas L. Hogan*, 47 ECAB 323 (1996); *Kurt R. Ellis*, 47 ECAB 505 (1996); *Alberta S. Williamson*, 47 ECAB 569 (1996); *Joe L. Wilkerson*, 47 ECAB 604 (1996).

¹¹ *Minnie L. Bryson*, 44 ECAB 713 (1995); *Froilan Negron Marrero*, 33 ECAB 796 (1982).

¹² The Board notes that appellant submitted additional evidence to the Office with his appeal to the Board. The Board cannot consider this evidence, however, as its review of the case is limited to the evidence of record which was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). Appellant may, however, request reconsideration by the Office of the November 2, 1999 decision.

The November 2, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
March 20, 2001

Michael J. Walsh
Chairman

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member